

(C) "HIGH-TECH ENTERPRISE" SHALL MEAN AN ENTERPRISE WHICH IS ENGAGED IN THE DEVELOPMENT OR MANUFACTURING OF COMPUTER CHIPS OR NANOELECTRONICS OR PHOTOVOLTAICS.

(D) "ELIGIBLE HIGH-TECH ENTERPRISE" SHALL MEAN A HIGH-TECH ENTERPRISE WHICH IS APPROVED BY THE COMMISSIONER PURSUANT TO THE PROVISIONS OF THIS ARTICLE AND WHICH INVESTS IN TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, DESCRIBED IN SUBPARAGRAPHS (I), (II), (III), AND CLAUSE (A) OR (C) OF SUBPARAGRAPH (V) OF PARAGRAPH (B) OF SUBDIVISION TWELVE-B OF SECTION TWO HUNDRED TEN OF THE TAX LAW, OR AS DESCRIBED IN SUBPARAGRAPHS (A), (B), (C), AND CLAUSE (I) OR (III) OF SUBPARAGRAPH (E) OF PARAGRAPH TWO OF SUBSECTION (J) OF SECTION SIX HUNDRED SIX OF THE TAX LAW, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL OR EXCEED TEN MILLION DOLLARS.

(E) "EFFECTIVE DATE" SHALL MEAN THE DATE WHICH IS THE LATER OF THE DATE OF THE APPLICATION TO THE COMMISSIONER BY THE HIGH-TECH ENTERPRISE, OR THE DATE BY WHICH THE HIGH-TECH ENTERPRISE HAS PLACED IN SERVICE TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY AS SET FORTH IN SUBDIVISION (D) OF THIS SECTION, THE BASIS OF WHICH FOR FEDERAL INCOME TAX PURPOSES WILL EQUAL OR EXCEED TEN MILLION DOLLARS.

S 351. INNOVATION TECHNOLOGY INVESTMENT PROGRAM. (A) THERE IS HEREBY CREATED IN THE DEPARTMENT AN INNOVATION TECHNOLOGY INVESTMENT PROGRAM TO CREATE ECONOMIC INCENTIVES FOR THE DEVELOPMENT OF HIGH-TECH ENTERPRISES INCLUDING THOSE ENTERPRISES WHICH ARE ENGAGED IN THE DEVELOPMENT OR MANUFACTURING OF COMPUTER CHIPS, NANOELECTRONICS OR PHOTOVOLTAICS. A BUSINESS WHICH IS DESIGNATED BY THE COMMISSIONER AS A HIGH-TECH ENTERPRISE PURSUANT TO THIS ARTICLE AND WHICH PLACES IN SERVICE TANGIBLE PERSONAL PROPERTY INCLUDING BUILDINGS AND CAPITAL EQUIPMENT WITH BASIS IN AN AMOUNT EQUAL TO OR EXCEEDING TEN MILLION DOLLARS SHALL BE ELIGIBLE FOR SPECIFIED TAX BENEFITS RELATING TO REAL PROPERTY TAXES, TAX REDUCTION CREDITS, INVESTMENT CREDITS, EMPLOYMENT INCENTIVE CREDITS AND WAGE TAX CREDITS AS SET FORTH IN THE TAX LAW.

(B) DEFINITIONS. (1) THE TERM "BUSINESS TAX BENEFIT PERIOD" SHALL MEAN THE TEN TAXABLE YEARS STARTING WITH THE TAXABLE YEAR IN WHICH THE BUSINESS ENTERPRISE'S BENEFIT PERIOD COMMENCEMENT DATE OCCURS, BUT ONLY WITH RESPECT TO EACH OF SUCH BUSINESS TAX BENEFIT PERIOD YEARS FOR WHICH THE EMPLOYMENT TEST IS MET.

(2) THE TERM "BENEFIT PERIOD COMMENCEMENT DATE" SHALL MEAN THE DATE WHEN PROPERTY CONSTITUTING THE PROJECT IS FIRST PLACED IN SERVICE.

(3) THE TERM "LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE" SHALL MEAN THE LOCATION OR LOCATIONS THAT THE HIGH-TECH ENTERPRISE IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THIS ARTICLE.

(C) FOR THE PURPOSE OF DETERMINING ELIGIBILITY FOR CERTAIN BENEFITS UNDER THIS ARTICLE AND THE CORRESPONDING TAX LAW PROVISIONS, THE FOLLOWING PROVISIONS AND DEFINITIONS SHALL APPLY AND SHALL BE UTILIZED BY THE COMMISSIONER OF TAXATION AND FINANCE TO DETERMINE SUCH ELIGIBILITY:

(1) THE EMPLOYMENT TEST SHALL BE MET WITH RESPECT TO A TAXABLE YEAR IF THE BUSINESS ENTERPRISE'S EMPLOYMENT NUMBER AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE FOR SUCH TAXABLE YEAR EQUALS OR EXCEEDS ITS EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE BASE PERIOD.

(2) THE TERM "BASE PERIOD" MEANS THE FIVE TAXABLE YEARS IMMEDIATELY PRECEDING THE TEST YEAR. IF THE HIGH-TECH ENTERPRISE HAS FEWER THAN

1 FIVE SUCH YEARS, THEN THE TERM "BASE PERIOD" MEANS SUCH SMALLER SET OF
2 YEARS.

3 (3) THE TERM "TEST YEAR" MEANS THE LAST TAXABLE YEAR OF THE HIGH-TECH
4 ENTERPRISE ENDING BEFORE THE TEST DATE. IF A HIGH-TECH ENTERPRISE DOES
5 NOT HAVE A TAXABLE YEAR THAT ENDS ON OR BEFORE THE TEST DATE, SUCH
6 ENTERPRISE SHALL BE DEEMED TO HAVE A TEST YEAR WHICH SHALL BE EITHER THE
7 LAST CALENDAR YEAR ENDING ON OR BEFORE ITS TEST DATE, OR IF SUCH ENTER-
8 PRISE HAS AS ITS TAXABLE YEAR A FISCAL YEAR, THE LAST SUCH FISCAL YEAR
9 ENDING ON OR BEFORE ITS TEST DATE, WHETHER OR NOT SUCH ENTERPRISE IN
10 FACT HAD A TAXABLE YEAR DURING THAT PERIOD.

11 (4) THE TERM "TEST DATE" MEANS THE DATE ON WHICH THE HIGH-TECH ENTER-
12 PRISE FILED ITS SUBMISSION AS AN ELIGIBLE HIGH-TECH ENTERPRISE TO THE
13 COMMISSIONER.

14 (5) THE TERM "TAXABLE YEAR" MEANS THE TAXABLE YEAR OF THE HIGH-TECH
15 ENTERPRISE UNDER SECTION ONE HUNDRED EIGHTY-THREE, ONE HUNDRED
16 EIGHTY-FOUR, ONE HUNDRED EIGHTY-FIVE OR FORMER SECTION ONE HUNDRED
17 EIGHTY-SIX OF ARTICLE NINE, OR UNDER ARTICLE NINE-A OR TWENTY-TWO OF THE
18 TAX LAW.

19 (6) THE TERM "NET NEW EMPLOYEES" SHALL MEAN THE EXCESS OF THE EMPLOY-
20 MENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE FOR THE TAXABLE YEAR AT
21 THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS
22 APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, OVER THE
23 EMPLOYMENT NUMBER OF THE ELIGIBLE HIGH-TECH ENTERPRISE AT SUCH LOCATIONS
24 FOR THE BASE PERIOD.

25 (7) THE TERM "EMPLOYMENT NUMBER" SHALL MEAN THE AVERAGE NUMBER OF
26 INDIVIDUALS, EXCLUDING GENERAL EXECUTIVE OFFICERS (IN THE CASE OF A
27 CORPORATION) EMPLOYED FULL-TIME BY THE ENTERPRISE FOR AT LEAST ONE-HALF
28 OF THE TAXABLE YEAR. SUCH NUMBER SHALL BE COMPUTED BY DETERMINING THE
29 NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST
30 DAY OF MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER
31 AND THE THIRTY-FIRST DAY OF DECEMBER DURING THE APPLICABLE TAXABLE YEAR,
32 ADDING TOGETHER THE NUMBER OF SUCH INDIVIDUALS DETERMINED TO BE SO
33 EMPLOYED ON EACH OF SUCH DATES AND DIVIDING THE SUM SO OBTAINED BY THE
34 NUMBER OF SUCH DATES OCCURRING WITHIN SUCH APPLICABLE TAXABLE YEAR. SUCH
35 NUMBER SHALL NOT INCLUDE INDIVIDUALS EMPLOYED WITHIN THE STATE WITHIN
36 THE IMMEDIATELY PRECEDING SIXTY MONTHS BY A RELATED PERSON TO THE ELIGI-
37 BLE HIGH-TECH ENTERPRISE, AS SUCH TERM "RELATED PERSON" IS DEFINED IN
38 SUBPARAGRAPH (C) OF PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR
39 HUNDRED SIXTY-FIVE OF THE FEDERAL INTERNAL REVENUE CODE. FOR THIS
40 PURPOSE, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD HAVE
41 QUALIFIED AS A "RELATED PERSON" TO THE ELIGIBLE HIGH-TECH ENTERPRISE IF
42 IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR
43 OTHERWISE CEASED TO EXIST OR OPERATE.

44 (D) CESSATION OF STATUS. A HIGH-TECH ENTERPRISE SHALL CEASE TO BE AN
45 ELIGIBLE HIGH-TECH ENTERPRISE ONLY IF IT CEASES TO MEET THE REQUIREMENTS
46 FOR SUCH TREATMENT UNDER SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY
47 OF THIS ARTICLE. SUCH CESSATION OF STATUS SHALL BE EFFECTIVE AS OF THE
48 DATE ON WHICH THE ELIGIBLE HIGH-TECH ENTERPRISE FAILS TO MEET SUCH
49 REQUIREMENTS.

50 S 352. RESPONSIBILITIES OF THE COMMISSIONER. THE COMMISSIONER SHALL
51 PROMULGATE REGULATIONS:

52 (A) REGARDING THE PROCESS FOR HIGH-TECH ENTERPRISES TO BE DESIGNATED
53 AS ELIGIBLE HIGH-TECH ENTERPRISES FOR PURPOSES OF THIS ARTICLE. SUCH
54 REGULATIONS SHALL NOT IMPOSE ANY ADDITIONAL CONSIDERATIONS FOR TREATMENT
55 AS AN ELIGIBLE HIGH-TECH ENTERPRISE OTHER THAN REQUIRING THE APPLICANT
56 TO SUBMIT DOCUMENTATION THAT IT WILL SATISFY THE CONDITIONS SET FORTH IN

1 SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF THIS ARTICLE AND SHALL
2 REQUIRE THE APPLICANT TO IDENTIFY THE LOCATION OR LOCATIONS THAT WILL BE
3 THE SITUS OF THE INVESTMENT UNDER SUCH SUBDIVISION;

4 (B) IN CONSULTATION WITH THE COMMISSIONER OF THE STATE DEPARTMENT OF
5 TAXATION AND FINANCE, GOVERNING THE PROCEDURE AND NECESSARY FORMS FOR
6 TAXPAYERS ENTITLED TO THE TAX CREDITS AS ELIGIBLE HIGH-TECH ENTERPRISES
7 TO RECEIVE SUCH CREDITS; AND

8 (C) IN CONSULTATION WITH THE COMMISSIONER OF LABOR, FOR PROGRAM EVALU-
9 ATION AND COORDINATE IMPLEMENTATION OF AN EVALUATION SYSTEM, WHICH IS
10 CAPABLE OF COMPILING AND ANALYZING ACCURATE AND CONSISTENT INFORMATION
11 NECESSARY FOR AN ASSESSMENT OF WHETHER STATUTORY OBJECTIVES AND CRITERIA
12 ARE BEING MET; AND

13 THE FAILURE OF THE COMMISSIONER TO PROMULGATE THE REGULATIONS REQUIRED
14 IN THIS SECTION SHALL NOT PREVENT A TAXPAYER QUALIFIED AS AN ELIGIBLE
15 HIGH-TECH ENTERPRISE FROM CLAIMING AND RECEIVING THE TAX CREDITS WHICH
16 IT IS ENTITLED TO UNDER THE RELEVANT PROVISIONS OF THE TAX LAW.

17 S 4. The tax law is amended by adding four new sections 33, 34, 35 and
18 36 to read as follows:

19 S 33. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A)
20 ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTER-
21 PRISE, AS DEFINED IN SUBDIVISION (D) OF SECTION THREE HUNDRED FIFTY OF
22 THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGI-
23 BLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGI-
24 BLE HIGH-TECH ENTERPRISE, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE
25 NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST
26 SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (F) OF
27 THIS SECTION, FOR ELIGIBLE REAL PROPERTY TAXES FOR ITS BUSINESS TAX
28 BENEFIT PERIOD.

29 (B) AMOUNT OF CREDIT. AN ELIGIBLE HIGH-TECH ENTERPRISE SHALL BE ENTI-
30 TLED TO RECEIVE A CREDIT EQUAL TO THE GREATER OF: (1) THE PRODUCT (OR
31 PRO RATA SHARE OF THE PRODUCT, IN THE CASE OF A MEMBER OF A PARTNERSHIP)
32 OF TWENTY-FIVE PERCENT OF THE TOTAL WAGES, HEALTH BENEFITS AND RETIRE-
33 MENT BENEFITS PAID TO OR ON BEHALF OF NET NEW EMPLOYEES DURING THE TAXA-
34 BLE YEAR, PROVIDED HOWEVER, THAT THE TOTAL AMOUNT OF THE CREDIT SHALL
35 NOT EXCEED TEN THOUSAND DOLLARS FOR EACH SUCH EMPLOYEE, OR

36 (2) THE PRODUCT OF (A) TEN PERCENT OF THE GREATER OF (I) THE COST OR
37 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF REAL PROPERTY, INCLUDING
38 BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT,
39 OWNED BY THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPER-
40 ATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT AS DETER-
41 MINED ON THE EFFECTIVE DATE, AS DEFINED IN SUBDIVISION (E) OF SECTION
42 THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR (II) THE COST OR
43 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF SUCH REAL PROPERTY
44 DESCRIBED IN CLAUSE (I) OF THIS SUBPARAGRAPH ON THE LAST DAY OF THE
45 TAXABLE YEAR, AND (B) THE GREATER OF (I) THE PERCENTAGE OF SUCH REAL
46 PROPERTY DESCRIBED IN CLAUSE (I) OF SUBPARAGRAPH (A) OF THIS PARAGRAPH
47 WHICH IS PHYSICALLY OCCUPIED AND USED BY THE ELIGIBLE HIGH-TECH ENTER-
48 PRISE, OR (II) THE PERCENTAGE OF SUCH COST OR OTHER BASIS WHICH IS
49 ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION OF SUCH
50 PROPERTY, RATHER THAN THE ACQUISITION OF SUCH REAL PROPERTY, BY THE
51 ELIGIBLE HIGH-TECH ENTERPRISE.

52 PROVIDED, HOWEVER, IF THE PERCENTAGE OF SUCH COST OR OTHER BASIS,
53 WHICH IS ATTRIBUTABLE TO THE CONSTRUCTION, EXPANSION OR REHABILITATION
54 OF SUCH REAL PROPERTY EQUALS OR EXCEEDS FIFTY PERCENT, THEN THE PERCENT-
55 AGE DESCRIBED IN CLAUSE (II) OF SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL
56 BE DEEMED TO BE ONE HUNDRED PERCENT. FOR PURPOSES OF COMPUTING TOTAL

1 WAGES, HEALTH BENEFITS AND RETIREMENT BENEFITS, WAGES, HEALTH BENEFITS
2 AND RETIREMENT BENEFITS FOR EACH EMPLOYEE IN EXCESS OF FORTY THOUSAND
3 DOLLARS SHALL BE EXCLUDED FROM SUCH COMPUTATION. PROVIDED FURTHER, THE
4 AMOUNT OF THE CREDIT MAY NOT EXCEED THE CREDIT AMOUNT SET FORTH IN
5 SUBDIVISION (C) OF THIS SECTION.

6 (C) ELIGIBLE REAL PROPERTY TAXES. THE TERM "ELIGIBLE REAL PROPERTY
7 TAXES" MEANS TAXES IMPOSED ON REAL PROPERTY WHICH IS OWNED BY THE ELIGI-
8 BLE HIGH-TECH ENTERPRISE AT THE LOCATION OF ITS OPERATIONS IDENTIFIED TO
9 THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE
10 HIGH-TECH ENTERPRISE, PROVIDED SUCH TAXES ARE PAID BY THE ELIGIBLE
11 HIGH-TECH ENTERPRISE WHICH IS THE OWNER OF THE REAL PROPERTY AND SUCH
12 TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE YEAR. IN
13 ADDITION, "ELIGIBLE REAL PROPERTY TAXES" SHALL INCLUDE TAXES PAID BY AN
14 ELIGIBLE HIGH-TECH ENTERPRISE WHICH IS A LESSEE OF REAL PROPERTY IF THE
15 FOLLOWING CONDITIONS ARE SATISFIED:

16 (1) THE TAXES MUST BE PAID BY THE LESSEE PURSUANT TO EXPLICIT REQUIRE-
17 MENTS IN A WRITTEN LEASE,

18 (2) SUCH TAXES BECOME A LIEN ON THE REAL PROPERTY DURING THE TAXABLE
19 YEAR AND

20 (3) THE LESSEE HAS MADE DIRECT PAYMENT OF SUCH TAXES TO THE TAXING
21 AUTHORITY AND HAS RECEIVED A RECEIPT FOR SUCH PAYMENT OF TAXES FROM THE
22 TAXING AUTHORITY. IN ADDITION, THE TERM "ELIGIBLE REAL PROPERTY TAXES"
23 INCLUDES PAYMENTS IN LIEU OF TAXES MADE BY THE ELIGIBLE HIGH-TECH ENTER-
24 PRISE TO THE STATE, A MUNICIPAL CORPORATION OR A PUBLIC BENEFIT CORPO-
25 RATION PURSUANT TO A WRITTEN AGREEMENT ENTERED INTO BETWEEN THE ELIGIBLE
26 HIGH-TECH ENTERPRISE AND THE STATE, MUNICIPAL CORPORATION, OR PUBLIC
27 BENEFIT CORPORATION.

28 (4) PROVIDED, HOWEVER, A PAYMENT IN LIEU OF TAXES MADE BY THE ELIGIBLE
29 HIGH-TECH ENTERPRISE PURSUANT TO A WRITTEN AGREEMENT SHALL NOT CONSTI-
30 TUTE ELIGIBLE REAL PROPERTY TAXES IN ANY TAXABLE YEAR TO THE EXTENT THAT
31 SUCH PAYMENT EXCEEDS THE PRODUCT OF (A) THE ASSESSED VALUE OF THE PROP-
32 erty, AND (B) THE CURRENT TAX RATE WITHIN THE TAXING JURISDICTION IN
33 WHICH SUCH PROPERTY IS LOCATED, AS MOST RECENTLY REPORTED TO THE COMMIS-
34 SIONER BY THE SECRETARY OF THE STATE BOARD OF REAL PROPERTY SERVICES, OR
35 HIS OR HER DESIGNEE.

36 (D) CREDIT RECAPTURE. WHERE AN ELIGIBLE HIGH-TECH ENTERPRISE'S ELIGI-
37 BLE REAL PROPERTY TAXES WHICH WERE THE BASIS FOR THE ALLOWANCE OF THE
38 CREDIT PROVIDED FOR UNDER THIS SECTION ARE SUBSEQUENTLY REDUCED AS A
39 RESULT OF A FINAL ORDER IN ANY PROCEEDING UNDER ARTICLE SEVEN OF THE
40 REAL PROPERTY TAX LAW OR OTHER PROVISION OF LAW, THE TAXPAYER SHALL ADD
41 BACK, IN THE TAXABLE YEAR IN WHICH SUCH FINAL ORDER IS ISSUED, THE
42 EXCESS OF (1) THE AMOUNT OF CREDIT ORIGINALLY ALLOWED FOR A TAXABLE YEAR
43 OVER (2) THE AMOUNT OF CREDIT DETERMINED BASED UPON THE REDUCED ELIGIBLE
44 REAL PROPERTY TAXES. IF SUCH FINAL ORDER REDUCES REAL PROPERTY TAXES FOR
45 MORE THAN ONE YEAR, THE TAXPAYER MUST DETERMINE HOW MUCH OF SUCH
46 REDUCTION IS ATTRIBUTABLE TO EACH YEAR COVERED BY SUCH FINAL ORDER AND
47 CALCULATE THE AMOUNT OF CREDIT WHICH IS REQUIRED BY THIS SUBDIVISION TO
48 BE RECAPTURED FOR EACH YEAR BASED ON SUCH REDUCTION.

49 (E) REFUND. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER THIS SECTION
50 FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE
51 EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
52 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX HUNDRED EIGHT-
53 Y-SIX OF THIS CHAPTER, PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID
54 THEREON.

55 (F) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN
56 THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE

CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF THIS CHAPTER:

(1) ARTICLE 9-A: SECTION 210: SUBDIVISION 27-A.

(2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (BB-1).

S 34. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, AND WHICH IS SUBJECT TO TAX UNDER ARTICLE NINE-A OR TWENTY-TWO OF THIS CHAPTER, SHALL BE ALLOWED A CREDIT AGAINST SUCH TAX, PURSUANT TO THE PROVISIONS REFERENCED IN SUBDIVISION (G) OF THIS SECTION, TO BE COMPUTED AS HEREINAFTER PROVIDED FOR ITS BUSINESS TAX BENEFIT PERIOD.

(B) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE THE PRODUCT OF (1) THE BENEFIT PERIOD FACTOR, (2) THE EMPLOYMENT INCREASE FACTOR, (3) THE LOCATION ALLOCATION FACTOR AND (4) THE TAX FACTOR.

(C) BENEFIT PERIOD FACTOR. THE BENEFIT PERIOD FACTOR SHALL EQUAL 1.0 FOR EACH TAXABLE YEAR OF THE BUSINESS TAX BENEFIT PERIOD.

(D) EMPLOYMENT INCREASE FACTOR. (1) THE EMPLOYMENT INCREASE FACTOR IS THE AMOUNT, NOT TO EXCEED 1.0, WHICH IS THE GREATER OF:

(I) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT NUMBER AT THE LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, OVER THE ELIGIBLE HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER AT SUCH LOCATION, DIVIDED BY SUCH TEST YEAR EMPLOYMENT NUMBER AT SUCH LOCATION; OR

(II) THE EXCESS OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYMENT NUMBER IN SUCH LOCATIONS FOR THE TAXABLE YEAR OVER THE ELIGIBLE HIGH-TECH ENTERPRISE'S TEST YEAR EMPLOYMENT NUMBER IN SUCH LOCATIONS, DIVIDED BY 100.

(2) FOR PURPOSES OF PARAGRAPH ONE OF THIS SUBDIVISION, WHERE THERE IS AN EXCESS AS DESCRIBED IN SUCH PARAGRAPH, AND WHERE THE TEST YEAR EMPLOYMENT NUMBER AS SUCH TERMS ARE DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW IS ZERO, THEN THE EMPLOYMENT INCREASE FACTOR SHALL BE 1.0.

(E) LOCATION ALLOCATION FACTOR. THE LOCATION ALLOCATION FACTOR SHALL BE THE PERCENTAGE REPRESENTING THE ELIGIBLE HIGH-TECH ENTERPRISE'S ECONOMIC PRESENCE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE. THIS PERCENTAGE SHALL BE COMPUTED BY:

(1) ASCERTAINING THE PERCENTAGE WHICH THE AVERAGE VALUE OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE DURING THE PERIOD COVERED BY THE TAXPAYER'S REPORT OR RETURN BEARS TO THE AVERAGE VALUE OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S REAL AND TANGIBLE PERSONAL PROPERTY, WHETHER OWNED OR RENTED TO IT, WITHIN THE STATE DURING SUCH PERIOD; AND

(2) ASCERTAINING THE PERCENTAGE OF THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD OF EMPLOYEES, EXCEPT GENERAL EXECUTIVE OFFICERS, OF THE ELIGIBLE HIGH-TECH ENTERPRISE AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, TO THE TOTAL WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION, SIMILARLY COMPUTED, DURING SUCH PERIOD, OF ALL THE ELIGIBLE HIGH-TECH ENTERPRISE'S EMPLOYEES WITHIN THE STATE, EXCEPT GENERAL EXECUTIVE OFFICERS; AND

(3) ADDING TOGETHER THE PERCENTAGES SO DETERMINED AND DIVIDING THE RESULT BY THE NUMBER OF PERCENTAGES. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, REFERENCES IN THIS SUBDIVISION TO PROPERTY, WAGES, SALARIES AND OTHER PERSONAL SERVICE COMPENSATION SHALL BE DEEMED TO BE REFERENCES TO SUCH ITEMS CONNECTED WITH THE CONDUCT OF A BUSINESS.

(F) TAX FACTOR. (1) GENERAL. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE NINE-A OF THIS CHAPTER, THE LARGER OF THE AMOUNTS OF TAX DETERMINED FOR THE TAXABLE YEAR UNDER PARAGRAPHS (A) AND (C) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER. THE TAX FACTOR SHALL BE, IN THE CASE OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TAX DETERMINED FOR THE TAXABLE YEAR UNDER SUBSECTIONS (A) THROUGH (D) OF SECTION SIX HUNDRED ONE OF THIS CHAPTER.

(2) SOLE PROPRIETORS, PARTNERS AND S CORPORATION SHAREHOLDERS. (A) WHERE THE TAXPAYER IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTERPRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE TAXPAYER'S INCOME FROM THE ELIGIBLE HIGH-TECH ENTERPRISE ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE TAXPAYER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE TAXPAYER'S TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(B)(I) WHERE THE TAXPAYER IS A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE TAXPAYER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE PARTNER'S INCOME FROM THE PARTNERSHIP ALLOCATED WITHIN THE STATE TO THE PARTNER'S ENTIRE INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE PARTNER'S TAX ATTRIBUTABLE TO THE INCOME OF THE PARTNERSHIP. IN NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

(II) FOR PURPOSES OF ARTICLE NINE-A OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR ENTIRE NET INCOME PLUS COMPENSATION, ALLOCATED WITHIN THE STATE. FOR PURPOSES OF ARTICLE TWENTY-TWO OF THIS CHAPTER, THE TERM "PARTNER'S INCOME FROM THE PARTNERSHIP" MEANS PARTNERSHIP ITEMS OF INCOME, GAIN, LOSS AND DEDUCTION, AND NEW YORK MODIFICATIONS THERETO, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, AND THE TERM "PARTNER'S ENTIRE INCOME" MEANS NEW YORK ADJUSTED GROSS INCOME.

(C) WHERE THE TAXPAYER IS A SHAREHOLDER OF A NEW YORK S CORPORATION WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, THE SHAREHOLDER'S TAX FACTOR SHALL BE THAT PORTION OF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE S CORPORATION. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH THE RATIO OF THE SHAREHOLDER'S INCOME FROM THE S CORPORATION ALLOCATED WITHIN THE STATE, ENTERING INTO NEW YORK ADJUSTED GROSS INCOME, TO THE SHAREHOLDER'S NEW YORK ADJUSTED GROSS INCOME, OR IN ACCORDANCE WITH SUCH OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPORTIONMENT WHICH

1 REASONABLY REFLECTS THE PORTION OF THE SHAREHOLDER'S TAX ATTRIBUTABLE TO
2 THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN NO EVENT MAY THE
3 RATIO SO DETERMINED EXCEED 1.0.

4 (3) COMBINED RETURNS OR REPORTS. (A) WHERE THE TAXPAYER IS AN ELIGIBLE
5 HIGH-TECH ENTERPRISE AND IS REQUIRED OR PERMITTED TO MAKE A RETURN OR
6 REPORT ON A COMBINED BASIS UNDER ARTICLE NINE-A OF THIS CHAPTER, THE
7 TAXPAYER'S TAX FACTOR SHALL BE THE AMOUNT DETERMINED IN PARAGRAPH ONE OF
8 THIS SUBDIVISION WHICH IS ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE
9 HIGH-TECH ENTERPRISE. SUCH ATTRIBUTION SHALL BE MADE IN ACCORDANCE WITH
10 THE RATIO OF THE ELIGIBLE HIGH-TECH ENTERPRISE'S INCOME ALLOCATED WITHIN
11 THE STATE TO THE COMBINED GROUP'S INCOME, OR IN ACCORDANCE WITH SUCH
12 OTHER METHODS AS THE COMMISSIONER MAY PRESCRIBE AS PROVIDING AN APPOR-
13 TIONMENT WHICH REASONABLY REFLECTS THE PORTION OF THE COMBINED GROUP'S
14 TAX ATTRIBUTABLE TO THE INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE. IN
15 NO EVENT MAY THE RATIO SO DETERMINED EXCEED 1.0.

16 (B) THE TERM "INCOME OF THE ELIGIBLE HIGH-TECH ENTERPRISE" MEANS
17 ENTIRE NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME
18 OR ENTIRE NET INCOME PLUS COMPENSATION CALCULATED AS IF THE TAXPAYER WAS
19 FILING SEPARATELY AND THE TERM "COMBINED GROUP'S INCOME" MEANS ENTIRE
20 NET INCOME, MINIMUM TAXABLE INCOME, ALTERNATIVE ENTIRE NET INCOME OR
21 ENTIRE NET INCOME PLUS COMPENSATION AS SHOWN ON THE COMBINED RETURN OR
22 REPORT, ALLOCATED WITHIN THE STATE.

23 (4) DENIAL OF ALLOWANCE. IF THE AMOUNT DETERMINED IN PARAGRAPH ONE OF
24 THIS SUBDIVISION IS LESS THAN ZERO, A TAXPAYER SHALL NOT BE ALLOWED A
25 CREDIT UNDER THIS SECTION.

26 (G) DEFINITIONS AND CROSS-REFERENCES. FOR DEFINITIONS OF TERMS USED IN
27 THIS SECTION SEE SECTION TWO OF THIS ARTICLE. FOR APPLICATION OF THE
28 CREDIT PROVIDED FOR IN THIS SECTION, SEE THE FOLLOWING PROVISIONS OF
29 THIS CHAPTER:

30 (1) ARTICLE 9-A: SECTION 210: SUBDIVISION 28-A.

31 (2) ARTICLE 22: SECTION 606: SUBSECTIONS (I) AND (CC-1).

32 S 35. INNOVATION TECHNOLOGY INVESTMENT TAX CREDIT. (A) (1) AN ELIGI-
33 BLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE NINE-A OF THE THIS
34 CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER
35 PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE NINE-A. THE AMOUNT
36 OF SUCH CREDIT SHALL BE TEN PERCENT OF THE COST OR OTHER BASIS FOR
37 FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPERTY AND OTHER
38 TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF
39 BUILDINGS, DESCRIBED IN SUBDIVISION (B) OF THIS SECTION, WHICH IS PLACED
40 IN SERVICE BY AN ELIGIBLE HIGH-TECH ENTERPRISE, BUT ONLY IF THE ACQUI-
41 TION, CONSTRUCTION, RECONSTRUCTION OR ERECTION OF SUCH PROPERTY OR CAPI-
42 TAL EQUIPMENT OCCURRED OR WAS COMMENCED ON OR AFTER THE TEST DATE, AS
43 DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF THE ECONOMIC DEVELOPMENT
44 LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN ACQUISITION,
45 CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS COMMENCED DURING SUCH
46 PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY, THE CREDIT SHALL BE TEN
47 PERCENT OF THE PORTION OF THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX
48 PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH PORTION SHALL BE ASCERTAINED
49 BY MULTIPLYING SUCH COST OR BASIS BY A FRACTION THE NUMERATOR OF WHICH
50 SHALL BE THE EXPENDITURES PAID OR INCURRED DURING SUCH PERIOD FOR SUCH
51 PURPOSES AND THE DENOMINATOR OF WHICH SHALL BE THE TOTAL OF ALL EXPENDI-
52 TURES PAID OR INCURRED FOR SUCH ACQUISITION, CONSTRUCTION, RECON-
53 STRUCTION OR ERECTION.

54 (2) AN ELIGIBLE HIGH-TECH ENTERPRISE SUBJECT TO TAX UNDER ARTICLE
55 TWENTY-TWO OF THIS CHAPTER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS
56 HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED UNDER SUCH ARTICLE TWEN-

1 TY-TWO. THE AMOUNT OF SUCH CREDIT SHALL BE EIGHT PERCENT OF THE COST OR
2 OTHER BASIS FOR FEDERAL INCOME TAX PURPOSES OF TANGIBLE PERSONAL PROPER-
3 TY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILDINGS AND STRUCTURAL
4 COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT, DESCRIBED IN SUBDIVISION
5 (B) OF THIS SECTION, WHICH IS PLACED IN SERVICE BY AN ELIGIBLE HIGH-TECH
6 ENTERPRISE, BUT ONLY IF THE ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR
7 ERECTION OF SUCH PROPERTY OR EQUIPMENT OCCURRED OR WAS COMMENCED ON OR
8 AFTER THE TEST DATE, AS DEFINED IN SECTION THREE HUNDRED FIFTY-ONE OF
9 THE ECONOMIC DEVELOPMENT LAW. PROVIDED, HOWEVER, THAT IN THE CASE OF AN
10 ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION WHICH WAS
11 COMMENCED DURING SUCH PERIOD AND CONTINUED OR COMPLETED SUBSEQUENTLY,
12 THE CREDIT SHALL BE EIGHT PERCENT OF THE PORTION OF THE COST OR OTHER
13 BASIS FOR FEDERAL INCOME TAX PURPOSES ATTRIBUTABLE TO SUCH PERIOD, WHICH
14 PORTION SHALL BE ASCERTAINED BY MULTIPLYING SUCH COST OR BASIS BY A
15 FRACTION THE NUMERATOR OF WHICH SHALL BE THE EXPENDITURES PAID OR
16 INCURRED DURING SUCH PERIOD FOR SUCH PURPOSES AND THE DENOMINATOR OF
17 WHICH SHALL BE THE TOTAL OF ALL EXPENDITURES PAID OR INCURRED FOR SUCH
18 ACQUISITION, CONSTRUCTION, RECONSTRUCTION OR ERECTION.

19 (B) A CREDIT SHALL BE ALLOWED UNDER THIS SECTION WITH RESPECT TO
20 TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROPERTY, INCLUDING BUILD-
21 INGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND CAPITAL EQUIPMENT WHICH:
22 (1) ARE DEPRECIABLE PURSUANT TO SECTION ONE HUNDRED SIXTY-SEVEN OF THE
23 INTERNAL REVENUE CODE, (2) HAVE A USEFUL LIFE OF FOUR YEARS OR MORE, (3)
24 ARE ACQUIRED BY PURCHASE AS DEFINED IN SECTION ONE HUNDRED SEVENTY-NINE
25 (D) OF THE INTERNAL REVENUE CODE, (4) HAVE A SITUS IN A LOCATION OF THE
26 ELIGIBLE HIGH-TECH ENTERPRISE'S OPERATIONS IDENTIFIED TO THE COMMISSION-
27 ER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREATED AS AN ELIGI-
28 BLE HIGH-TECH ENTERPRISE, AND (5) ARE (A) PRINCIPALLY USED BY THE
29 TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROCESSING, ASSEM-
30 BLING, (B) INDUSTRIAL WASTE TREATMENT FACILITIES OR AIR POLLUTION
31 CONTROL FACILITIES USED IN THE TAXPAYER'S TRADE OR BUSINESS, OR (C)
32 RESEARCH AND DEVELOPMENT PROPERTY. FOR PURPOSES OF THIS SUBDIVISION, THE
33 TERM "GOODS" SHALL NOT INCLUDE ELECTRICITY. FOR PURPOSES OF THIS PARA-
34 GRAPH, MANUFACTURING SHALL MEAN THE PROCESS OF WORKING RAW MATERIALS
35 INTO WARES SUITABLE FOR USE OR WHICH GIVES NEW SHAPES, NEW QUALITY OR
36 NEW COMBINATION TO MATTER WHICH ALREADY HAS GONE THROUGH SOME ARTIFICIAL
37 PROCESS BY THE USE OF MACHINERY, TOOLS, APPLIANCES AND OTHER SIMILAR
38 EQUIPMENT. PROPERTY USED IN THE PRODUCTION OF GOODS SHALL INCLUDE
39 MACHINERY, EQUIPMENT OR OTHER TANGIBLE PROPERTY WHICH IS PRINCIPALLY
40 USED IN THE REPAIR AND SERVICE OF OTHER MACHINERY, EQUIPMENT OR OTHER
41 TANGIBLE PROPERTY USED PRINCIPALLY IN THE PRODUCTION OF GOODS AND SHALL
42 INCLUDE ALL FACILITIES USED IN THE PRODUCTION OPERATION, INCLUDING STOR-
43 AGE OF MATERIAL TO BE USED IN PRODUCTION AND OF THE PRODUCTS THAT ARE
44 PRODUCED. FOR PURPOSES OF THIS PARAGRAPH, THE TERMS "RESEARCH AND DEVEL-
45 OPMENT PROPERTY", "INDUSTRIAL WASTE TREATMENT FACILITIES", AND "AIR
46 POLLUTION CONTROL FACILITIES" SHALL HAVE THE MEANINGS ASCRIBED THERETO
47 BY PARAGRAPH (B) OF SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF
48 THIS CHAPTER AND THE PROVISIONS OF PARAGRAPH (C) OF SUCH SUBDIVISION
49 TWELVE SHALL APPLY.

50 (C) A TAXPAYER SHALL NOT BE ALLOWED A CREDIT UNDER THIS SUBDIVISION
51 WITH RESPECT TO ANY TANGIBLE PERSONAL PROPERTY AND OTHER TANGIBLE PROP-
52 erty, INCLUDING BUILDINGS AND STRUCTURAL COMPONENTS OF BUILDINGS AND
53 CAPITAL EQUIPMENT, WHICH IT LEASES TO ANY OTHER PERSON OR CORPORATION.

54 (D) A TAXPAYER MAY CLAIM THE CREDIT ALLOWED UNDER THIS SECTION FOR TEN
55 YEARS, COMMENCING WITH THE PERIOD THE TAXPAYER PLACES THE PROPERTY THAT
56 COMPRISES THE PROJECT IN SERVICE. IF THE AMOUNT OF CREDIT ALLOWED UNDER

1 THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
2 SUCH YEAR, THE EXCESS MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS
3 AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN
4 LIEU OF CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION,
5 RECEIVE FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSU-
6 ANT TO THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT
7 OF TAX AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER,
8 PROVIDED, HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

9 (E) AT THE OPTION OF THE TAXPAYER, AIR OR WATER POLLUTION CONTROL
10 FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATIONS UNDER SUBSECTION (H)
11 OF SECTION SIX HUNDRED TWELVE OF THIS CHAPTER, OR RESEARCH AND DEVELOP-
12 MENT FACILITIES WHICH QUALIFY FOR ELECTIVE MODIFICATION UNDER PARAGRAPHS
13 THREE AND FOUR OF SUBSECTION (G) OF SECTION SIX HUNDRED TWELVE OF THIS
14 CHAPTER, OR PROPERTY WHICH QUALIFIES FOR THE CREDIT PROVIDED UNDER
15 SUBDIVISION (A) OF THIS SECTION MAY BE TREATED AS PROPERTY PRINCIPALLY
16 USED BY THE TAXPAYER IN THE PRODUCTION OF GOODS BY MANUFACTURING, PROC-
17 ESSING, OR ASSEMBLING, PROVIDED THE PROPERTY OTHERWISE QUALIFIES UNDER
18 PARAGRAPH TWO OF SUBDIVISION (A) OF THIS SECTION, IN WHICH EVENT A
19 DEDUCTION SHALL NOT BE ALLOWED UNDER SUCH SUBSECTION (H) OR SUCH PARA-
20 GRAPHS THREE AND FOUR OF SUBSECTION (G) AND A CREDIT SHALL NOT BE
21 ALLOWED UNDER SUCH SUBSECTION (G) OR (H).

22 (F) (1) WITH RESPECT TO PROPERTY WHICH IS DEPRECIABLE PURSUANT TO
23 SECTION ONE HUNDRED SIXTY-SEVEN OF THE INTERNAL REVENUE CODE BUT IS NOT
24 SUBJECT TO THE PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF SUCH
25 CODE AND WHICH IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
26 THE END OF THE TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE
27 AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN
28 THIS SECTION WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED
29 USE BEAR TO THE MONTHS OF USEFUL LIFE. IF THE PROPERTY ON WHICH CREDIT
30 HAS BEEN TAKEN IS DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO
31 THE END OF ITS USEFUL LIFE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND
32 THE CREDIT ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF
33 DISPOSITION. PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEAS-
34 ES TO BE IN QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE
35 THAN TWELVE CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE
36 CREDIT AS PROVIDED IN THIS SUBDIVISION. THE AMOUNT OF CREDIT ALLOWED FOR
37 ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE
38 RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE MONTHS OF USEFUL
39 LIFE. FOR PURPOSES OF THIS SUBDIVISION, USEFUL LIFE OF PROPERTY SHALL BE
40 THE SAME AS THE TAXPAYER USES FOR DEPRECIATION PURPOSES WHEN COMPUTING
41 HIS FEDERAL INCOME TAX LIABILITY.

42 (2) EXCEPT WITH RESPECT TO THAT PROPERTY TO WHICH SUBPARAGRAPH FOUR OF
43 THIS PARAGRAPH APPLIES, WITH RESPECT TO PROPERTY SUBJECT TO THE
44 PROVISIONS OF SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE
45 CODE OTHER THAN THREE-YEAR PROPERTY AS DEFINED IN SUBSECTION (E) OF SUCH
46 SECTION ONE HUNDRED SIXTY-EIGHT OF THE INTERNAL REVENUE CODE WHICH IS
47 DISPOSED OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE
48 TAXABLE YEAR IN WHICH THE CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CRED-
49 IT SHALL BE THAT PORTION OF THE CREDIT PROVIDED FOR IN THIS SUBDIVISION
50 WHICH REPRESENTS THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO
51 SIXTY. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED OF OR
52 CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF SIXTY MONTHS, THE
53 DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT ALLOWED FOR ACTUAL
54 USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION. THE AMOUNT OF CREDIT
55 ALLOWED FOR ACTUAL USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL
56 CREDIT BY THE RATIO WHICH THE MONTHS OF QUALIFIED USE BEAR TO SIXTY.

1 (3) WITH RESPECT TO ANY PROPERTY TO WHICH SECTION ONE HUNDRED
2 SIXTY-EIGHT OF THE INTERNAL REVENUE CODE APPLIES, WHICH IS A BUILDING OR
3 A STRUCTURAL COMPONENT OF A BUILDING AND WHICH IS DISPOSED OF OR CEASES
4 TO BE IN QUALIFIED USE PRIOR TO THE END OF THE TAXABLE YEAR IN WHICH THE
5 CREDIT IS TO BE TAKEN, THE AMOUNT OF THE CREDIT SHALL BE THAT PORTION OF
6 THE CREDIT PROVIDED FOR IN THIS SUBDIVISION WHICH REPRESENTS THE RATIO
7 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
8 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
9 NAL REVENUE CODE. IF PROPERTY ON WHICH CREDIT HAS BEEN TAKEN IS DISPOSED
10 OF OR CEASES TO BE IN QUALIFIED USE PRIOR TO THE END OF THE PERIOD OVER
11 WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTERNAL
12 REVENUE CODE, THE DIFFERENCE BETWEEN THE CREDIT TAKEN AND THE CREDIT
13 ALLOWED FOR ACTUAL USE MUST BE ADDED BACK IN THE YEAR OF DISPOSITION.
14 PROVIDED, HOWEVER, IF SUCH PROPERTY IS DISPOSED OF OR CEASES TO BE IN
15 QUALIFIED USE AFTER IT HAS BEEN IN QUALIFIED USE FOR MORE THAN TWELVE
16 CONSECUTIVE YEARS, IT SHALL NOT BE NECESSARY TO ADD BACK THE CREDIT AS
17 PROVIDED IN THIS SUBPARAGRAPH. THE AMOUNT OF CREDIT ALLOWED FOR ACTUAL
18 USE SHALL BE DETERMINED BY MULTIPLYING THE ORIGINAL CREDIT BY THE RATIO
19 WHICH THE MONTHS OF QUALIFIED USE BEAR TO THE TOTAL NUMBER OF MONTHS
20 OVER WHICH THE TAXPAYER CHOOSES TO DEDUCT THE PROPERTY UNDER THE INTER-
21 NAL REVENUE CODE.

22 (4) FOR PURPOSES OF THIS PARAGRAPH, WHERE A CREDIT IS ALLOWED WITH
23 RESPECT TO AN AIR POLLUTION CONTROL FACILITY ON THE BASIS OF A CERTIF-
24 ICATE OF COMPLIANCE ISSUED PURSUANT TO THE ENVIRONMENTAL CONSERVATION
25 LAW AND THE CERTIFICATE IS REVOKED PURSUANT TO SUBDIVISION THREE OF
26 SECTION 19-0309 OF THE ENVIRONMENTAL CONSERVATION LAW, SUCH REVOCATION
27 SHALL CONSTITUTE A DISPOSAL OR CESSATION OF QUALIFIED USE, EXCEPT WITH
28 RESPECT TO PROPERTY CONTAINED IN OR COMPRISING SUCH FACILITY AS
29 DESCRIBED IN CLAUSE (A) OR (C) OF SUBPARAGRAPH (II) OF PARAGRAPH (B) OF
30 SUBDIVISION TWELVE OF SECTION TWO HUNDRED TEN OF THIS CHAPTER, OTHER
31 THAN AS PART OF OR COMPRISING AN AIR POLLUTION CONTROL FACILITY.

32 S 36. INNOVATION TECHNOLOGY EMPLOYMENT INCENTIVE CREDIT. (A) WHERE A
33 TAXPAYER IS ALLOWED A CREDIT UNDER SECTION THIRTY-FIVE OF THIS ARTICLE,
34 THE TAXPAYER SHALL BE ALLOWED A CREDIT FOR EACH OF THE THREE YEARS NEXT
35 SUCCEEDING THE TAXABLE YEAR FOR WHICH THE CREDIT UNDER SUCH SECTION
36 THIRTY-FIVE IS ALLOWED, WITH RESPECT TO SUCH PROPERTY, WHETHER OR NOT
37 DEDUCTIBLE IN SUCH TAXABLE YEAR OR IN SUBSEQUENT TAXABLE YEARS OF THIRTY
38 PERCENT OF THE CREDIT ALLOWABLE UNDER SUCH SECTION THIRTY-FIVE;
39 PROVIDED, HOWEVER, THAT THE CREDIT ALLOWABLE UNDER THIS SECTION FOR ANY
40 TAXABLE YEAR SHALL ONLY BE ALLOWED IF THE AVERAGE NUMBER OF EMPLOYEES
41 EMPLOYED BY THE TAXPAYER AT LOCATIONS OF ITS OPERATIONS IDENTIFIED TO
42 THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS APPLICATION TO BE TREAT-
43 ED AS AN ELIGIBLE HIGH-TECH ENTERPRISE, IN WHICH SUCH PROPERTY IS
44 LOCATED DURING SUCH TAXABLE YEAR IS AT LEAST ONE HUNDRED ONE PERCENT OF
45 THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED BY THE TAXPAYER IN SUCH
46 LOCATION DURING THE TAXABLE YEAR IMMEDIATELY PRECEDING THE TAXABLE YEAR
47 FOR WHICH THE CREDIT UNDER SUCH SECTION THIRTY-FIVE IS ALLOWED.

48 (B) THE AVERAGE NUMBER OF EMPLOYEES EMPLOYED IN A LOCATION OF ITS
49 OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOPMENT IN ITS
50 APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTERPRISE IN A TAXA-
51 BLE YEAR SHALL BE COMPUTED BY ASCERTAINING THE NUMBER OF SUCH EMPLOYEES
52 WITHIN SUCH LOCATION EMPLOYED BY THE TAXPAYER ON THE THIRTY-FIRST DAY OF
53 MARCH, THE THIRTIETH DAY OF JUNE, THE THIRTIETH DAY OF SEPTEMBER AND THE
54 THIRTY-FIRST DAY OF DECEMBER IN THE TAXABLE YEAR, BY ADDING TOGETHER THE
55 NUMBER OF EMPLOYEES ASCERTAINED IN EACH OF SUCH DATES AND DIVIDING THE

1 SUM SO OBTAINED BY THE NUMBER OF SUCH ABOVEMENTIONED DATES OCCURRING
2 WITHIN THE TAXABLE YEAR.

3 (C) IF THE AMOUNT OF CREDIT ALLOWED UNDER THIS SECTION FOR ANY TAXABLE
4 YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, THE EXCESS MAY BE
5 CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY BE DEDUCTED FROM THE
6 TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF CARRYING OVER ANY SUCH
7 EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE FIFTY PERCENT OF SUCH
8 EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO THIS PARAGRAPH SHALL BE
9 DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX AS PROVIDED IN SECTION
10 SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO
11 INTEREST SHALL BE PAID THEREON.

12 S 5. Section 210 of the tax law is amended by adding a new subdivision
13 19-a to read as follows:

14 19-A. INNOVATION TECHNOLOGY WAGE TAX CREDIT. (A) A TAXPAYER SHALL BE
15 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
16 TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN
17 ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE
18 ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS
19 PRESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVISION. SUCH CREDIT SHALL BE
20 AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH
21 THE TAXPAYER HAS NET NEW EMPLOYEES AS DEFINED IN SECTION THREE HUNDRED
22 FIFTY-ONE OF THE ECONOMIC DEVELOPMENT LAW FOR MORE THAN HALF THE TAXPAY-
23 ER'S FISCAL YEAR.

24 (B) FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL
25 HAVE THE FOLLOWING MEANINGS:

26 (1) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT
27 DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTER-
28 PRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOP-
29 MENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTER-
30 PRISE.

31 (2) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGI-
32 BLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF
33 THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE
34 CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE
35 INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L.
36 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS,
37 (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED
38 POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR
39 A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY
40 ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY
41 OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES
42 OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH
43 IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF
44 INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS
45 CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF
46 THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO
47 YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES
48 TO RECEIVE ELIGIBLE WAGES.

49 (3) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE
50 COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE
51 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
52 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER
53 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER
54 THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND
55 DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITH-
56 IN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

1 (C) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (1) THE PRODUCT
2 OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED
3 FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF
4 SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION, WHO (I)
5 RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II)
6 RECEIVED WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY
7 THE TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST
8 ONE HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION
9 SIX HUNDRED FIFTY-TWO OF THE LABOR LAW, (III) ARE TARGETED EMPLOYEES,
10 AND (IV) ARE HIRED AFTER THE TEST DATE; AND (2) THE PRODUCT OF FIFTEEN
11 HUNDRED DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS (EXCLUDING INDIVIDUALS
12 DESCRIBED IN SUBPARAGRAPH ONE OF THIS PARAGRAPH) EMPLOYED FULL-
13 TIME BY THE TAXPAYER AND HIRED AFTER THE TEST DATE, COMPUTED PURSUANT TO
14 THE PROVISIONS OF SUBPARAGRAPH THREE OF PARAGRAPH (B) OF THIS SUBDIVISION,
15 WHO RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE
16 YEAR. PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN THIS
17 SUBDIVISION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH
18 CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY
19 NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER
20 SECTION SIX HUNDRED ONE OF THIS CHAPTER COMPUTED WITHOUT REGARD TO ANY
21 CREDIT PROVIDED FOR UNDER THIS ARTICLE.

22 (D) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS
23 EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS
24 BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF
25 PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF
26 THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER
27 OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH ONE OR SUBPARAGRAPH TWO OF
28 PARAGRAPH (C) OF THIS SUBDIVISION, UNLESS SUCH RELATED PERSON WAS NEVER
29 ALLOWED A CREDIT UNDER THIS SUBDIVISION WITH RESPECT TO SUCH EMPLOYEES.
30 FOR PURPOSES OF THIS SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN
31 ENTITY WHICH WOULD HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER
32 IF IT HAD NOT BEEN DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR
33 OTHERWISE CEASED TO EXIST OR OPERATE.

34 (E) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH ONE OR TWO OF
35 PARAGRAPH (C) OF THIS SUBDIVISION SHALL BE INCREASED BY FIVE HUNDRED
36 DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO
37 RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND
38 DOLLARS.

39 (F) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED
40 UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX
41 FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRY-
42 OVERS OF SUCH CREDIT, OR BOTH, WHICH MAY NOT BE DEDUCTED FROM THE TAX
43 OTHERWISE DUE BY REASON OF THE FINAL SENTENCE IN PARAGRAPH (D) OF THIS
44 SUBDIVISION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
45 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF
46 CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE
47 FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO
48 THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX
49 AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS CHAPTER, PROVIDED,
50 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

51 S 6. Section 606 of the tax law is amended by adding a new subsection
52 (k-1) to read as follows:

53 (K-1) INNOVATION TECHNOLOGY WAGE TAX CREDIT. (1) A TAXPAYER SHALL BE
54 ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE
55 TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER HAS BEEN APPROVED AS AN
56 ELIGIBLE HIGH-TECH ENTERPRISE UNDER SECTION THREE HUNDRED FIFTY OF THE

1 ECONOMIC DEVELOPMENT LAW. THE AMOUNT OF SUCH CREDIT SHALL BE AS
2 PRESCRIBED IN PARAGRAPH TWO OF THIS SUBSECTION. SUCH CREDIT SHALL BE
3 AVAILABLE FOR FIVE SUCCESSIVE YEARS COMMENCING WITH THE YEAR IN WHICH
4 THE TAXPAYER HAS EMPLOYEES FOR MORE THAN HALF THE TAXPAYER'S FISCAL
5 YEAR.

6 (2) FOR THE PURPOSES OF THIS SUBSECTION, THE FOLLOWING TERMS SHALL
7 HAVE THE FOLLOWING MEANINGS:

8 (A) "ELIGIBLE WAGES" MEANS WAGES PAID BY THE TAXPAYER FOR EMPLOYMENT
9 DURING THE TAXABLE YEAR, AT LOCATIONS OF AN ELIGIBLE HIGH-TECH ENTER-
10 PRISE'S OPERATIONS IDENTIFIED TO THE COMMISSIONER OF ECONOMIC DEVELOP-
11 MENT IN ITS APPLICATION TO BE TREATED AS AN ELIGIBLE HIGH-TECH ENTER-
12 PRISE.

13 (B) "TARGETED EMPLOYEE" MEANS A NEW YORK RESIDENT WHO RECEIVES ELIGI-
14 BLE WAGES AND WHO IS (I) AN ELIGIBLE INDIVIDUAL UNDER THE PROVISIONS OF
15 THE TARGETED JOBS TAX CREDIT (SECTION FIFTY-ONE OF THE INTERNAL REVENUE
16 CODE), (II) ELIGIBLE FOR BENEFITS UNDER THE PROVISIONS OF THE WORKFORCE
17 INVESTMENT ACT AS A DISLOCATED WORKER OR LOW-INCOME INDIVIDUAL (P.L.
18 105-220, AS AMENDED), (III) A RECIPIENT OF PUBLIC ASSISTANCE BENEFITS,
19 (IV) AN INDIVIDUAL WHOSE INCOME IS BELOW THE MOST RECENTLY ESTABLISHED
20 POVERTY RATE PROMULGATED BY THE UNITED STATES DEPARTMENT OF COMMERCE, OR
21 A MEMBER OF A FAMILY WHOSE FAMILY INCOME IS BELOW THE MOST RECENTLY
22 ESTABLISHED POVERTY RATE PROMULGATED BY THE APPROPRIATE FEDERAL AGENCY
23 OR (V) AN HONORABLY DISCHARGED MEMBER OF ANY BRANCH OF THE ARMED FORCES
24 OF THE UNITED STATES. AN INDIVIDUAL WHO SATISFIES THE CRITERIA SET FORTH
25 IN CLAUSE (I), (II), (IV) OR (V) OF THIS SUBPARAGRAPH AT THE TIME OF
26 INITIAL EMPLOYMENT IN THE JOB WITH RESPECT TO WHICH THE CREDIT IS
27 CLAIMED, OR WHO SATISFIES THE CRITERION SET FORTH IN CLAUSE (III) OF
28 THIS SUBPARAGRAPH AT SUCH TIME OR AT ANY TIME WITHIN THE PREVIOUS TWO
29 YEARS, SHALL BE A TARGETED EMPLOYEE SO LONG AS SUCH INDIVIDUAL CONTINUES
30 TO RECEIVE ELIGIBLE WAGES.

31 (C) "AVERAGE NUMBER OF INDIVIDUALS EMPLOYED FULL-TIME" SHALL BE
32 COMPUTED BY ASCERTAINING THE NUMBER OF SUCH INDIVIDUALS EMPLOYED BY THE
33 TAXPAYER ON THE THIRTY-FIRST DAY OF MARCH, THE THIRTIETH DAY OF JUNE,
34 THE THIRTIETH DAY OF SEPTEMBER AND THE THIRTY-FIRST DAY OF DECEMBER
35 DURING EACH TAXABLE YEAR OR OTHER APPLICABLE PERIOD, BY ADDING TOGETHER
36 THE NUMBER OF SUCH INDIVIDUALS ASCERTAINED ON EACH OF SUCH DATES AND
37 DIVIDING THE SUM SO OBTAINED BY THE NUMBER OF SUCH DATES OCCURRING WITH-
38 IN SUCH TAXABLE YEAR OR OTHER APPLICABLE PERIOD.

39 (3) THE AMOUNT OF THE CREDIT SHALL EQUAL THE SUM OF: (A) THE PRODUCT
40 OF THREE THOUSAND DOLLARS AND THE AVERAGE NUMBER OF INDIVIDUALS EMPLOYED
41 FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE PROVISIONS OF
42 SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO (I) RECEIVED
43 ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR, (II) RECEIVED
44 WITH RESPECT TO MORE THAN HALF OF THE PERIOD OF EMPLOYMENT BY THE
45 TAXPAYER DURING THE TAXABLE YEAR, AN HOURLY WAGE WHICH WAS AT LEAST ONE
46 HUNDRED THIRTY-FIVE PERCENT OF THE MINIMUM WAGE SPECIFIED IN SECTION SIX
47 HUNDRED FIFTY-TWO OF THE LABOR LAW, AND (III) ARE TARGETED EMPLOYEES;
48 AND (B) THE PRODUCT OF FIFTEEN HUNDRED DOLLARS AND THE AVERAGE NUMBER OF
49 INDIVIDUALS (EXCLUDING INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (A) OF THIS
50 PARAGRAPH) EMPLOYED FULL-TIME BY THE TAXPAYER, COMPUTED PURSUANT TO THE
51 PROVISIONS OF SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS SUBSECTION, WHO
52 RECEIVED ELIGIBLE WAGES FOR MORE THAN HALF OF THE TAXABLE YEAR.
53 PROVIDED, FURTHER, HOWEVER, THAT THE CREDIT PROVIDED FOR IN THIS
54 SUBSECTION WITH RESPECT TO THE TAXABLE YEAR, AND CARRYOVERS OF SUCH
55 CREDIT TO THE TAXABLE YEAR, DEDUCTED FROM THE TAX OTHERWISE DUE, MAY
56 NOT, IN THE AGGREGATE, EXCEED FIFTY PERCENT OF THE TAX IMPOSED UNDER

1 SECTION SIX HUNDRED ONE OF THIS PART COMPUTED WITHOUT REGARD TO ANY
2 CREDIT PROVIDED FOR UNDER THIS ARTICLE.

3 (4) FOR PURPOSES OF CALCULATING THE AMOUNT OF THE CREDIT, INDIVIDUALS
4 EMPLOYED WITHIN THE STATE WITHIN THE IMMEDIATELY PRECEDING SIXTY MONTHS
5 BY A RELATED PERSON, AS SUCH TERM IS DEFINED IN SUBPARAGRAPH (C) OF
6 PARAGRAPH THREE OF SUBSECTION (B) OF SECTION FOUR HUNDRED SIXTY-FIVE OF
7 THE INTERNAL REVENUE CODE, SHALL NOT BE INCLUDED IN THE AVERAGE NUMBER
8 OF INDIVIDUALS DESCRIBED IN SUBPARAGRAPH (C) OF PARAGRAPH TWO OF THIS
9 SUBSECTION, UNLESS SUCH RELATED PERSON WAS NEVER ALLOWED A CREDIT UNDER
10 THIS SUBSECTION WITH RESPECT TO SUCH EMPLOYEES. FOR PURPOSES OF THIS
11 SUBPARAGRAPH, A "RELATED PERSON" SHALL INCLUDE AN ENTITY WHICH WOULD
12 HAVE QUALIFIED AS A "RELATED PERSON" TO THE TAXPAYER IF IT HAD NOT BEEN
13 DISSOLVED, LIQUIDATED, MERGED WITH ANOTHER ENTITY OR OTHERWISE CEASED TO
14 EXIST OR OPERATE.

15 (5) THE DOLLAR AMOUNTS SPECIFIED UNDER SUBPARAGRAPH (A) OR (B) OF
16 PARAGRAPH THREE OF THIS SUBSECTION SHALL BE INCREASED BY FIVE HUNDRED
17 DOLLARS FOR EACH QUALIFYING INDIVIDUAL UNDER SUCH SUBPARAGRAPH WHO
18 RECEIVED, DURING THE TAXABLE YEAR, WAGES IN EXCESS OF FORTY THOUSAND
19 DOLLARS.

20 (6) IF THE AMOUNT OF THE CREDIT AND CARRYOVERS OF SUCH CREDIT ALLOWED
21 UNDER THIS SECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX
22 FOR SUCH YEAR, THE EXCESS, AS WELL AS ANY PART OF THE CREDIT OR CARRY-
23 OVERS OF SUCH CREDIT, OR BOTH, WHICH MAY NOT BE DEDUCTED FROM THE TAX
24 OTHERWISE DUE BY REASON OF THE FINAL SENTENCE IN PARAGRAPH THREE OF THIS
25 SUBSECTION, MAY BE CARRIED OVER TO THE FOLLOWING YEAR OR YEARS AND MAY
26 BE DEDUCTED FROM THE TAXPAYER'S TAX FOR SUCH YEAR OR YEARS. IN LIEU OF
27 CARRYING OVER ANY SUCH EXCESS, A TAXPAYER MAY, AT HIS OPTION, RECEIVE
28 FIFTY PERCENT OF SUCH EXCESS AS A REFUND. ANY REFUND PAID PURSUANT TO
29 THIS PARAGRAPH SHALL BE DEEMED TO BE A REFUND OF AN OVERPAYMENT OF TAX
30 AS PROVIDED IN SECTION SIX HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED,
31 HOWEVER, THAT NO INTEREST SHALL BE PAID THEREON.

32 S 7. Section 606 of the tax law is amended by adding two new
33 subsections (bb-1) and (cc-1) to read as follows:

34 (BB-1) INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (1)
35 ALLOWANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTER-
36 PRISE AS DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOP-
37 MENT LAW, OR WHICH IS A SOLE PROPRIETOR OF AN ELIGIBLE HIGH-TECH ENTER-
38 PRISE OR A MEMBER OF A PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH
39 ENTERPRISE, SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES,
40 TO BE COMPUTED AS PROVIDED IN SECTION THIRTY-THREE OF THIS CHAPTER,
41 AGAINST THE TAX IMPOSED BY THIS ARTICLE.

42 (2) APPLICATION OF CREDIT. IF THE AMOUNT OF THE CREDIT ALLOWED UNDER
43 THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR
44 SUCH YEAR, THE EXCESS SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE
45 CREDITED OR REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION SIX
46 HUNDRED EIGHTY-SIX OF THIS ARTICLE, PROVIDED, HOWEVER, THAT NO INTEREST
47 SHALL BE PAID THEREON.

48 (CC-1) INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. ALLOWANCE OF CRED-
49 IT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED IN
50 SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW, OR WHICH IS
51 A SOLE PROPRIETOR OF A ELIGIBLE HIGH-TECH ENTERPRISE OR A MEMBER OF A
52 PARTNERSHIP WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE, SHALL BE ALLOWED
53 AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT AGAINST THE TAX IMPOSED BY
54 SUBSECTIONS (A) THROUGH (E) OF SECTION SIX HUNDRED ONE OF THIS PART.

55 S 8. Section 210 of the tax law is amended by adding two new subdivi-
56 sions 27-a and 28-a to read as follows:

1 27-A. INNOVATION TECHNOLOGY CREDIT FOR REAL PROPERTY TAXES. (A) ALLOW-
2 ANCE OF CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS
3 DEFINED IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW
4 SHALL BE ALLOWED A CREDIT FOR ELIGIBLE REAL PROPERTY TAXES, TO BE
5 COMPUTED AS PROVIDED IN SECTION THIRTY-THREE OF THIS CHAPTER, AGAINST
6 THE TAX IMPOSED BY THIS ARTICLE.

7 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
8 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
9 THAN THE HIGHER OF THE AMOUNTS PRESCRIBED IN PARAGRAPHS (C) AND (D) OF
10 SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT
11 ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
12 SUCH AMOUNT, ANY AMOUNT OF CREDIT THUS NOT DEDUCTIBLE IN SUCH TAXABLE
13 YEAR SHALL BE TREATED AS AN OVERPAYMENT OF TAX TO BE CREDITED OR
14 REFUNDED IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND
15 EIGHTY-SIX OF THIS CHAPTER. PROVIDED, HOWEVER, THE PROVISIONS OF
16 SUBSECTION (C) OF SECTION ONE THOUSAND EIGHTY-EIGHT OF THIS CHAPTER
17 NOTWITHSTANDING, NO INTEREST SHALL BE PAID THEREON.

18 28-A. INNOVATION TECHNOLOGY TAX REDUCTION CREDIT. (A) ALLOWANCE OF
19 CREDIT. A TAXPAYER WHICH IS AN ELIGIBLE HIGH-TECH ENTERPRISE AS DEFINED
20 IN SECTION THREE HUNDRED FIFTY OF THE ECONOMIC DEVELOPMENT LAW SHALL BE
21 ALLOWED AN INNOVATION TECHNOLOGY TAX REDUCTION CREDIT, TO BE COMPUTED AS
22 PROVIDED IN SECTION THIRTY-FOUR OF THIS CHAPTER, AGAINST THE TAX IMPOSED
23 BY THIS ARTICLE.

24 (B) APPLICATION OF CREDIT. THE CREDIT ALLOWED UNDER THIS SUBDIVISION
25 FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS
26 THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS
27 SECTION.

28 S 9. Subparagraph (B) of paragraph 1 of subsection (i) of section 606
29 of the tax law is amended by adding three new clauses (xxxi), (xxxii)
30 and (xxxiii) to read as follows:

31 (XXXI) INNOVATION TECHNOLOGY WAGE	ELIGIBLE WAGES UNDER SUBDIVISION
32 TAX CREDIT UNDER SUBSECTION (K-1)	NINETEEN-A OF SECTION TWO HUNDRED
33	TEN

34 (XXXII) INNOVATION TECHNOLOGY CREDIT	AMOUNT OF CREDIT UNDER SUBDIVISION
35 FOR REAL PROPERTY TAXES UNDER	TWENTY-SEVEN-A OF SECTION TWO
36 SUBSECTION (BB-1)	HUNDRED TEN

37 (XXXIII) INNOVATION TECHNOLOGY TAX	AMOUNT OF BENEFIT UNDER SUBDIVISION
38 REDUCTION CREDIT UNDER SUBSECTION	TWENTY-EIGHT-A OF SECTION TWO
39 (CC-1)	HUNDRED TEN

40 S 10. This act shall take effect immediately.